REMARKS

Claims 7-10 are under examination and claims 1-6 are withdrawn from examination.

By the foregoing amendments, claims 7 and 8 have been amended. Support for the amendments to claims 7 and 8 can be found in the specification on page 19, lines 20-21.

The Double Patenting Rejection

Claims 7-10 are rejected on the grounds of obviousness-type double patenting over claims 12, 15, 26, 27 and 34 of U.S. 6,582,918 in view of Gold et al., U.S. 5,270,163, and Zimmerman et al., U.S. 5,425,940.

Subject claim 7 is directed to a method for improving the pharmacokinetic properties of a PDGF nucleic acid ligand (SEQ ID NO:146) by complexing it with a Non-Immunogenic, High Molecular Weight Compound or Lipophilic Compound; and administering it to the patient. Subject claim 8 is directed to a method for targeting an agent to biological target that is expressing PDGF in a patient comprising covalently linking the agent with a Complex comprising PDGF nucleic acid ligand (SEQ ID NO:146) and a Non-Immunogenic, High Molecular Weight Compound or a Lipophilic Compound, and administering the Complex to the patient.

Dependent claims 9 and 10 specify that that the Non-Immunogenic, High Molecular Weight Compound comprises 5' 40K PEG.

It is respectfully submitted that because the cited references do not teach or suggest all of the elements in the subject independent claims, they do not establish *prima facie* obviousness (*In re Royka*, 180 USPQ 580 (CCPA 1974); *In re Boe*, 184 USPQ 38 (CCPA 1974)). The cited claims 12, 15, 26, 27 and 34 of U.S. 6,582,918 are directed to methods for inhibiting growth of tumors with SEQ ID NO.:146 Complex; method for inhibiting fibrosis by administering SEQ ID NO:146 Complex; and method of inhibiting restenosis by administering SEQ ID NO.:146 Complex. The cited claims do not teach or suggest the subject claims 7-10 because they do not mention enhancing pharmacokinetic properties of a PDGF nucleic acid ligand or targeting of a therapeutic or diagnostic agent to a specific biological target that is expressing PDGF in a patient.

In support of the alleged obviousness of subject claim 7 over '918 claims 15 and 27, the Examiner relies on col. 17, line 44 through col. 18, line 3, of the '918 patent for support for the concept that the association of a non-immunogenic, high molecular weight compound or lipophilic compound will result in several advantages, one of which is improved pharmacokinetic properties. Applicants respectfully submit that, under *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1969), this reliance is misplaced, as "the patent disclosure [of the prior patent] may not be used as prior art" except as a dictionary for the meaning of certain terms used in the cited claims (*id.* at 441). In the instant situation, the Examiner does not cite definitions from the prior patent for any of the terms in the cited claims 15 and 27 for the concepts of inhibition of fibrosis or restenosis.

The embodiments of claims 15 and 27 are described at col. 27, lines 31-40 and col. 27, line 64 to col. 28, line 36 of the '918 patent. This section of the specification does not describe the improved pharmacokinetics of the Complex, as is recited in subject claim 7. It is therefore respectfully submitted that claims 7 and 9 are not obvious under the doctrine of obviousness-type double patenting over the '918 patent.

In support of the alleged obviousness of subject claim 8, the Examiner relies on claim 12 and Examples 8 and 9 of the '918 patent in combination with Gold et al. and Zimmerman et al. Claim 12 and Examples 8 and 9 of the '918 patent do not teach combining the nucleic acid ligand with a therapeutic agent. The Examiner argues that Gold et al. teach that nucleic acid ligands can be used for drug delivery and Zimmerman et al. at col. 3 teach that cancer therapies routinely involve combinations of therapeutic agents. Applicants respectfully point out that Gold et al. do not mention or suggest the conjugation of an agent to a Complex of a nucleic acid ligand and a high molecular weight compound or lipophilic compound. Further, Zimmerman et al. do not mention or suggest covalent linking of the agent to a nucleic acid ligand or to a Complex of a nucleic acid ligand and a high molecular weight compound or lipophilic compound. It is therefore respectfully submitted that there is insufficient reason to combine the claims of the '918 patent with Gold et al. and Zimmerman et al.

In view of the foregoing, it is respectfully requested that the double patenting rejection be withdrawn.

Closing Remarks

It is believed that the foregoing remarks bring the subject case into condition for allowance and notification of same is respectfully requested. If it is believed that a phone conference would bring the subject case into condition for allowance, the Examiner is invited to phone the undersigned.

Submitted herewith is a Petition for Extension of Time for three months with the authorization to charge the Deposit Account No. 19-5117 the requisite fee. It is believed that no other fees are due with this submission. If this is in error, please charge any necessary fees to Deposit Account No. 19-5117.

Respectfully submitted,

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/Margaret M. Wall/

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